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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION FOUR

THE PEOPLE,

Plaintiff and Respondent,

v.

STACEY MARIE NORTON,

Defendant and Appellant.

B231741

(Los Angeles County
Super. Ct. No. LA065814)

APPEAL from a judgment of the Superior Court of Los Angeles County,
Joseph Brandolino, Judge. Affirmed as modified.

Penners Bergen and Ann Bergen, under appointment by the Court of
Appeal, for Defendant and Appellant.

Kamala D. Harris, Attorney General, Dane R. Gillette, Chief Assistant
Attorney General, Lance E. Winters, Senior Assistant Attorney General and
Theresa A. Patterson, Deputy Attorney General, for Plaintiff and Respondent.

Appellant Stacey Marie Norton was charged and convicted of one count of possession of a controlled substance (Health & Saf. Code, § 11350, subd. (a)). Evidence at trial established that when Los Angeles Police Officers executed a search warrant on the residence of co-defendant Joseph James Hiesl on August 11, 2010, appellant was found in possession of a glass pipe and a plastic bindle containing a small but usable amount of heroin.

The court placed appellant on probation. One of the conditions of probation imposed by the court required appellant to “not use or possess any narcotics, dangerous or restricted drugs or associated paraphernalia, except with valid prescription, and stay away from places where users, buyers or sellers congregate.”

DISCUSSION

Under Penal Code section 1203.1, a court granting probation may impose “reasonable conditions, as it may determine are fitting and proper to the end that justice may be done, that amends may be made to society for the breach of the law, for any injury done to any person resulting from that breach, and generally and specifically for the reformation and rehabilitation of the probationer” (Pen. Code, § 1203.1, subd. (j).) “In granting probation, courts have broad discretion to impose conditions to foster rehabilitation and to protect public safety pursuant to Penal Code section 1203.1. [Citations.]” (*People v. Carbajal* (1995) 10 Cal.4th 1114, 1120-1121.) “A probation condition ‘must be sufficiently precise for the probationer to know what is required of him [or her], and for the court to determine whether the condition has been violated’” (*In re Sheena K.* (2007) 40 Cal.4th 875, 890.)

Appellant contends and respondent concedes that the probation condition requiring her to “stay away from places where users or sellers [of narcotics, dangerous or restricted drugs and paraphernalia] congregate” is unconstitutionally

vague and overbroad because it contains no knowledge requirement. (See *In re Sheena K.*, *supra*, 40 Cal.4th at pp. 890-892 [finding probation condition that defendant not associate with anyone “disapproved of by probation”] unconstitutional because “condition did not notify defendant in advance with whom she might not associate through any reference to persons whom defendant knew to be disapproved of by her probation officer”].) There is no dispute that this claim may be raised for the first time on appeal because it involves a pure question of law. (See *In re Sheena K.*, *supra*, at p. 889.) The parties further agree that the proper course of action is to modify the probation condition.¹

¹ Appellant contends that in the alternative, the condition should be stricken. As the condition serves the laudable purpose of deterring appellant from future criminality by compelling her to avoid places where she would be tempted to purchase or abuse drugs, modification is the more appropriate course of action. (See *People v. Lopez* (1998) 66 Cal.App.4th 615, 634.)

DISPOSITION

The probation condition requiring appellant to “not use or possess any narcotics, dangerous or restricted drugs or associated paraphernalia, except with valid prescription, and stay away from places where users, buyers or sellers congregate” is modified to state that appellant is to “not use or possess any narcotics, dangerous or restricted drugs or associated paraphernalia, except with valid prescription, and stay away from locations known by her to be places where users, buyers or sellers congregate.” As modified, the judgment is affirmed.

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MANELLA, J.

We concur:

WILLHITE, Acting P. J.

SUZUKAWA, J.